

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – SIGOR CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2022

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Sigor Constituency set out on Pages 1 to 33, which comprise the statement of assets and liabilities as at 30 June, 2022, statement of receipts and payments, statement of cash flows and the statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material

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respects, the financial position of the National Government Constituencies Development Fund - Sigor Constituency as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Variances in Financial Statements

The following variances in the financial statements were noted;

- 1.1 The statement of receipts and payments reflects comparative compensation of employees expenditure of Kshs.4,002,037 while Note 4 reflects Kshs.3,745,465 resulting to an unexplained nor variance of Kshs.256,572;
- 1.2 The statement of receipts and payments reflects comparative use of goods and services expenditure of Kshs.9,615,811 while Note 5 reflects Kshs.9,606,411 resulting to an unexplained nor variance of Kshs.9,400;
- 1.3 The statement of receipts and payments reflects comparative transfers to other government units expenditure of Kshs.57,998,354 while Note 6 reflects Kshs.58,598,354 resulting to an unexplained nor variance of Kshs.600,000.

In the circumstances, the accuracy of the above amounts included in these financial statements could not be confirmed.

2. Unsupported Expenditure on Committee Allowances

The statement of receipts and payments reflects use of goods and services amount of Kshs.12,062,371 as disclosed in Note 5 to the financial statements. The amount includes committee allowance amount of Kshs.5,475,000 which was not supported by invitation letters to attend meetings, attendance register and committee minutes.

In the circumstances, the accuracy, completeness and occurrence of committee allowance expenditure of Kshs.5,475,000 could not be confirmed.

3. Unacknowledged Bursary Disbursements

The statement of receipts and payment reflect other grants and transfers of Kshs.64,346,455 as disclosed in Note 7 to the financial statements. The transfers include bursary disbursements to tertiary institutions and secondary schools of Kshs.54,698,950. However, only Kshs.33,673,950 was acknowledgement by official receipts from the respective institutions resulting to an unexplained variance of Kshs.21,025,000.

In the circumstances, the accuracy and completeness of bursary disbursements of Kshs.21,025,000 could not be confirmed.

4. Unsupported Fuel Payments

The statement of receipts and payments reflects use of goods and services amount of Kshs.12,062,371 as disclosed in Note 5 to the financial statements which includes fuel, oil and lubricants amount of Kshs.696,000. However, this payment was not supported by

work tickets, detail orders, suppliers fuel statements and fuel register contrary to Regulation 104(1) of Public Finance Management regulations, 2015 which states that all receipts and payments of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

In the circumstances, the accuracy, completeness and occurrence of fuel, oil and lubricants expenditure of Kshs.696,000 could not be ascertained.

5. Stale Cheques

The statement of assets and liabilities reflects bank balance of Kshs.27,429,113 as disclosed in Note 10A to the financial statements. Included in the balance are unrepresented cheques amounting to Kshs.10,916,332 out of which Kshs.2,996,248 were stale cheques which had not been reversed in the cashbook.

In the circumstances, the accuracy and completeness of bank balance of Kshs.2,996,248 could not be confirmed.

6. Unsupported Project Management Committee Bank Balance

Note 17.4 reflects project management committee (PMC) bank balance of Kshs.35,339,477 held in twenty-six (26) commercial banks as disclosed in Annex 5 to the financial statements. However, the respective certificates of bank balances, cash books, bank reconciliation statements and bank statements were not provided for audit. In addition, during the year under review Kshs.79,500,000 was disbursed to fifty-eight (58) projects, an indication of non-disclosure of twenty-nine (29) project management committee bank balances.

In the circumstances, the existence, accuracy and completeness of project management committee bank balance of Kshs.35,339,477 could not be confirmed.

7. Inaccuracy of Land Balance

Annex 4 to the financial statements on summary of fixed assets register reflects cumulative historical asset balance of Kshs.37,597,570. However, the land on which the Fund's building and structures are built has not been valued and not included in fixed assets register and financial statements. In addition, land ownership documents or land title deeds were not provided for audit.

In the circumstances, the accuracy, completeness and ownership of fixed assets historical cost balance of Kshs.37,597,570 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Sigor Constituency Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

1. Budgetary Control and Performance

The summary statement of appropriation reflects final payments budget of Kshs.188,350,645 and actual on comparable basis of Kshs.161,871,532 resulting to an under-utilization of Kshs.26,479,113 or 14% of the budget.

The under utilization of budgeted funds is an indication that services and approved projects/programmes were not delivered to the residents.

2. Project Implementation Status

Ten (10) projects with total disbursements of Kshs.19,900,000 were inspected in March, 2023 and observed to have implementation challenges including poor workmanship, delays and non-labeling of the projects as summarized in **Appendix 1**.

Failure to implement projects as envisioned denied residents the benefits that would have accrued from the approved projects.

3 Unresolved Prior Year Matters

The management has not addressed audit issues in 2020/2021 financial year report contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require accounting officers designated for National Government Entities to try to resolve any issues resulting from an audit that remain outstanding. The issues therefore remain unresolved as indicated in the progress on follow up of auditor recommendations report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way

Basis for Conclusion

1. Failure to Prepare Schedule of Meetings

Note 5 to the financial statements reflects committee allowance amount of Kshs.5,475,000. However, there was no evidence to confirm that the secretary to the committee prepared a schedule of meetings which were to be held during the year. This was contrary to Regulation 7(9) of the National Government Constituencies Development Fund Regulations, 2016 which states that the Secretary shall, at the beginning of every financial year, in consultation with the officer of the Board seconded to the Constituency,

prepare and table before a Constituency Committee a schedule of the meetings to be held during the year.

In the circumstances, Management was in breach of the law.

2. Delay in Disbursement of Funds from the Board

The statement of receipts and payments reflects transfers from National Government Constituencies Development Fund Board amount of Kshs.182,177,758. The amount includes Kshs.45,088,879 or 25% of total budgeted receipts for financial year 2020/2021. The late disbursements contravene Section 39(2) of the National Government Constituencies Development Fund Act, 2015 which states that the disbursement of funds to the Constituency Fund account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to twenty-five per centum of the allocation for the constituency and thereafter the Constituency Fund account shall be replenished in three equal instalments at the beginning of the second, third and fourth quarters of the financial year.

In the circumstances, Management of the Board was in breach of the law resulting in delay in implementation of approved projects or programs.

3. Irregular Routine Maintenance of Vehicles

Note 5 to the financial statements reflects routine maintenance of vehicles and other transport equipment amount of Kshs.1,083,206. However, there was no evidence of competitive bidding for the services. This was contrary to Section 106(2) (b) of the Public Procurement and Asset Disposal Act, 2015 which requires the Accounting officer of a procuring entity to ensure that the request for quotation to be given to as many persons as necessary to ensure effective competition and shall be given to at least three persons, unless that is not possible;

In the circumstances, Management breached the law.

4. Irregular Award of Tenders

Note 6 to the financial statements reflects transfers to other government units of Kshs.81,300,000. The amount includes transfers of Kshs.5,000,000 to Ngoyomwo Primary School for construction of an eighty (80) pupils capacity dormitory, Kshs.1,600,000 to AIC Masat Primary School for construction of two (2) classrooms and Kshs.5,000,000 to Chesombur Secondary School for construction of an eighty (80) students capacity laboratory. However, there was no evidence of appointment to the tender opening committees contrary to Section 78(1) of Public Procurement and Asset Disposal Act, 2015 and establishment of an adhoc evaluation committee contrary to Section 46(1) of the same Act. In addition, there was no evidence of contract agreement for construction of laboratory at Chesombur Secondary School contrary to Section 135(1) and award notification to the winning bidder and regret letters to unsuccessful bidders contrary to Sections 87(2) and (3) of the same Act.

In the circumstances, Management was in breach of the law.

5. Failure to Properly Constitute Bursary Committee

Note 7 to the financial statements reflects bursary disbursements to tertiary institutions and secondary schools amount of Kshs.54,698,950. The bursary awards were done by a bursary sub-committee which did not include area education officer or a representative from the Ministry of Education. This was contrary to Constituency Development Fund Board circular reference VOL1/111 dated 13 September, 2010 which requires that a subcommittee of Constituency Development Fund to manage the bursary scheme should include two co-opted members one who must be an education officer, or an officer seconded from Ministry of Education.

In the circumstances, Management was in breach of the law.

6. Unsupported Emergency Projects

Note 7 to the financial statements reflects emergency projects payments of Kshs.7,200,000 out which Kshs.2,700,000 was incurred on construction of a police station and pit latrines. However, there was no evidence to show that the projects met the prescribed emergency criteria. This was contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015 which states that “Emergency’ shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the committee that it cannot be delayed until the next financial year without harming the public interest of the constituents.

In the circumstances, Management was in breach.

7. Lack of Staff Appraisal

During the year under review Management did not carry out staff appraisal to the seventeen (17) members of staff. This was contrary to paragraph G.10 of the Public Service Commission Human Resource Policy Manual 2016 which states that performance appraisal is an on-going process throughout the performance period. Milestones over the review period should be documented and maintained in the appraisee’s personal file.

In the circumstances, Management was in breach of the law.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Fund or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements comply with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Fund's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could

reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report.

However, future events or conditions may cause the Fund to cease to continue to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Fund to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

12 June, 2023

Appendix 1

Project Verification Report

S/No.	Project Name	Project Activity	Amount Disbursed (Kshs.)	Observations
1.	Chepkoghin Primary School	Construction of one classroom to completion	800,000	The classroom internal wall plastering has developed some cracks, external wall keying not done, slab finishing and embankment were not done. The verandah has cracks and labelling for the project has not been done.
2.	Runo Primary School	Construction of two classrooms to completion	1,600,000	The classroom internal walls plastering was not smoothed and painting was two coats instead of three. The verandah has cracks, electrical installation was not done and the project is not labelled.
3.	Aniken Primary School	Fencing of 4 Acre perimeter with barbed wire and chain link wire and with metallic posts	1,000,000	The fencing is complete but the project is not labelled.
4.	Chester Chief's Office	Construction of 4-door pit latrine	800,000	The latrine is complete and in use but not labelled.
5.	Chepserum Primary School	Renovation of 8 classrooms	2,000,000	Two lower classrooms were well done, four glasses windows were not fixed, internal wall not painted and floor plastering was not done but.
6.	Lomut Chief's Office	Construct of four-door pit latrine toilets	1,100,000	The toilet is complete, internal wall painted but not plastered. One door is not properly fitted and the room was not constructed to the specifications and appeared to be too small and the project is not labelled.
7.	Parsonga Primary School	Construction of an 80-students capacity dormitory to completion	5,000,000	The dormitory is complete, however, half of it is being used as classroom and the other as a dormitory. Also, the project is not labelled.

S/No.	Project Name	Project Activity	Amount Disbursed (Kshs.)	Observations
8.	Chesombur Secondary School	Construction of 80-students capacity twin laboratory to completion	5,000,000	The construction is ongoing and only one laboratory and a store has been built and were incomplete. The laboratory is being used as a classroom and the project is not labelled.
9.	Kokwomesses Primary School	Construction of 10 door pit latrine toilets and urinal to completion with one door user friendly and accessible to persons with disability	2,000,000	The project is complete and in use however, internal and external wall were not plastered but painted. The project is not accessible to persons with disability and it is not labelled.
10.	Cheptamas Primary School	Construction of four-door pit latrine to completion with one door friendly and accessible to Persons with Disability	600,000	Two (2) doors have not been installed, plastering not done and one latrine is not accessible to persons with disability and the project is not labelled.
		Total	19,900,000	